



Delisting of Methyl Ethyl Ketone

#06-19 (APCB)

Overview

Incorporates by reference at 326 IAC 1-2-33.5 the federal delisting of methyl ethyl ketone (MEK).

Citations Affected

Amends 326 IAC 1-2-33.5.

Affected Persons

Businesses that use methyl ethyl ketone.

Reason or Reasons for the Rule

This rule will ensure consistency between the federal and state lists of hazardous air pollutants (HAPs) for regulatory purposes.

Benefits of the Rule

The rule eliminates the burdens associated with regulating MEK as a HAP. MEK will continue to be regulated under U.S. EPA's criteria pollutant (ozone) program.

Economic Impact of the Rule

The rule makes the use of MEK easier and less costly than when it was listed as a HAP.

Description of the Rulemaking Project.

MEK has exceptionally high solvent powers for many natural and synthetic resins. It is used as a solvent in the surface coatings industry, specifically in vinyl lacquers, nitrocellulose lacquers, and acrylics, and is used as a chemical intermediate. It is also used in other industries for producing adhesives, magnetic tapes, printing inks, degreasing and cleaning fluids, as a dewaxing agent for lubrication oils, as an intermediate in the production of antioxidants, perfumes, and as a catalyst. MEK also occurs naturally. It is emitted from various evergreen trees and has been identified as a natural component of several foods. Exposure occurs

in the workplace or in the environment following releases to air, water, land, or groundwater.

On November 27, 1996, the American Chemistry Council's Ketones Panel submitted a petition to delete methyl ethyl ketone (MEK) from the hazardous air pollutants (HAPs) list in Section 112(b)(1) of the CAA. Following the receipt of the petition, U.S. EPA conducted a preliminary evaluation to determine whether the petition was complete according to U.S. EPA criteria.

U.S. EPA published a notice of receipt of a complete petition to delist MEK in the Federal Register on June 23, 1999 (64 FR 33453). Based on comprehensive review of the data provided in the petition and other sources, EPA made an initial determination that the statutory criterion for deletion of MEK from the HAP list had been met. U.S. EPA, therefore, granted the petition by the American Chemistry Council's Ketones Panel on May 30, 2003 (68 FR 32608). On December 19, 2005, U.S. EPA published a final rule (70 FR 75047) that amended the list of HAPs contained in Section 112(b)(1) of the CAA to delist MEK. In that December 19, 2005 notice, EPA cited a number of references to support its finding that the cancer potential for MEK is low and that non-cancer health effects occur only at levels that far exceed those to which the public could reasonably be expected to be exposed.

This rulemaking will incorporate by reference the final federal rule at 70 FR 75059 to provide consistency between state and federal regulations.

Scheduled Hearings

First Public Hearing: March 1, 2006 at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rule is consistent with federal laws, rules, and guidance.

Rulemaking Process

The first step in the rulemaking process is publication of one of three types of notices in the *Indiana Register*. The first type of notice is a first notice of comment period. The first notice of comment period includes a discussion of issues and opens a first comment period. A second notice is then published which contains the comments and the department's responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The second type of notice is a section 7 notice. A section 7 notice contains a determination by the commissioner under IC 13-14-9-7 that only one comment period is required. It contains the commissioner's determination and findings, the draft rule, a request for written comments and a

notice of first meeting/hearing. The third type of notice is a section 8 notice. A section 8 notice contains a determination by the commissioner under IC 13-14-9-8 that no public comment periods are required. It contains the commissioner's determination and findings, the draft rule and a notice of first meeting/hearing. In each case the Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Secretary of State. This rulemaking was initiated with a section 8 notice.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Patrick Brady, Rule Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).